

# EXHIBIT A



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed: COMPLAINT**  
**January 11, 2021 15:05**

By: RONALD A. APELT 0046621

Confirmation Nbr. 2153602

ROBERT DUNCAN, ET AL.

CV 21 942779

vs.

**Judge: STEVEN E. GALL**

MILLER PIPELINE, LLC, ET AL.

**Pages Filed: 6**



Now come the Plaintiffs, by and through counsel, and for their Complaint against the Defendant state as follows:

PRELIMINARY STATEMENTS:

1. Plaintiffs Robert and Peggy Duncan are a married couple, both over the age of fifty (50), and who currently reside in Akron, Ohio. At all times relevant herein, Plaintiffs Robert and Peggy Duncan (“Mr. & Mrs. Duncan”) had previously been employees of the Defendant Miller Pipeline, LLC.
2. At all times relevant herein, Defendant Miller Pipeline, LLC (“Defendant”) conducted business in Cuyahoga County, Ohio, as well as throughout Ohio, and have their headquarters located in Indianapolis Indiana. At the time of the events in question, Defendant conducted and did business throughout Northeast Ohio and in and around the Cleveland-Akron area.
3. Mr. & Mrs. Duncan allege that they were discriminated against in their employment based upon their age (over 40), to wit, Defendant through its agents/employees/supervisors failed to recall them for work, which ultimately led to their constructive discharge/termination from their employment with Defendant. This adverse employment action which Mr. & Mrs. Duncan allege was based on their age, was in violation of Ohio law and Ohio Revised Code §4112.02.

STATEMENT OF FACTS:

4. Mr. & Mrs. Duncan began their employment with Defendant Miller Pipeline, LLC in and around the summer of 2017. Specifically, Mr. & Mrs. Duncan held the position as “Flaggers”, and worked on a part-time basis with Defendant at various construction locations in the Cuyahoga County areas, primarily through the Spring, Summer and Fall months and continued to the end of each year.

5. Mr. & Mrs. Duncan primarily worked out of Defendant's local yard located at or around 5250 Brookpark Road, in Cleveland, Ohio, located within Cuyahoga County. Their positions as "Flaggers" were held by Mr. & Mrs. Duncan until they were notified that they would not be called back to work, despite being able to do so, on or about July 16, 2020.

6. At the time of the events in question, Mr. & Mrs. Duncan were usually assigned to work by one of Defendant's supervisors, Jeff Pfizer, who was the supervisor for all "Flaggers" in the northeast Ohio division of Defendant's company.

7. At all times relevant herein, Defendant's agent/employee/supervisor, Jeff Pfizer, was working within the course and scope of his agency/employment with Defendant at the time of the events at issue.

8. Beginning in and around January of 2020, Defendant's agent/employee/supervisor, Jeff Pfizer, told both Mr. & Mrs. Duncan that they would be called back in March 2020 as was the custom as service crews would be needed at that time.

9. Subsequent to that time, Mr. & Mrs. Duncan routinely texted/contacted Defendant's agent/employee/supervisor, Jeff Pfizer, throughout March, April and into early Summer as to when they would be getting back to work and were told that delays were taking place due to issues surrounding Covid/Corona Virus.

10. Mr. & Mrs. Duncan continued to make calls/texts to Defendant's agent/employee/supervisor, Jeff Pfizer, between May and early July of 2020 regarding when they were going to be called back, and at times, received no response to their calls or texts.

11. Mr. & Mrs. Duncan had been a part of the same "Flagger" crew, consisting of eight (8) people, over the course of the years they had previously worked for Defendant, including 2017, 2018, and 2019.

12. Mr. & Mrs. Duncan were the only individuals from their crew who were not called back to their crew in 2020 by Defendant.

13. Ultimately, on July 16, 2020, Mrs. Duncan sent a text to Defendant's agent/employee/supervisor, Jeff Pfizer, inquiring as to when they were going to be called back to work and Defendant's agent/employee/supervisor, Jeff Pfizer, informed Mrs. Duncan that they would not be called back, essentially terminating their employment and constituting a constructive discharge.

14. At no time during the course of the year 2020 were Mr. & Mrs. Duncan ever recalled back to work by Defendant through any of its agents/employees/supervisors.

15. Defendant's actions, thru its agents/employees/supervisors, including its Northeast Ohio Supervisor, Jeff Pfizer, were actions whereby Mr. & Mrs. Duncan were treated differently than other similarly situated employees in failing to call them back to work on said "Flagger" crew and they were the only individuals not called back to their normal crew.

16. Mr. & Mrs. Duncan were never provided anything in writing as to why they were the only individuals not being brought back and later learned that two (2) new "Flaggers" for that crew took their place in 2020 on the crew, one of which was the niece of a District Manager for Defendant and one of which was a relative of a local Union Steward, both Flaggers (female) were under the age of forty (40).

17. Mr. & Mrs. Duncan, as a result of this constructive discharge and termination, lost wages, benefits and other damages not yet fully known.

COUNT I: AGE DISCRIMINATION:

18. Mr. & Mrs. Duncan hereby incorporate by reference each and every allegation set forth previously in their Complaint as if the same had been fully rewritten herein.

19. As a result of the above mentioned actions of Defendant's agents/employees/supervisors, including its local Supervisor, Jeff Pfizer, Mr. & Mrs. Duncan were subjected to age discrimination through the actions of Defendant's agents/employees/supervisors which was directed towards them, in failing to call them back to work at any point in 2020, despite their ability to work, as well as Defendant's agents/employees/supervisors treatment of them, which actions/conduct differed from other similarly situated individuals, and was based upon their age, in violation of Ohio law and Ohio Revised Code §4112.02.

20. As a direct and proximate result of this age discrimination, Mr. & Mrs. Duncan suffered adverse employment actions, including, but not limited to, their constructive discharge/termination from Defendant and as a result lost wages, benefits and other damages.

COUNT II: PUNITIVE DAMAGES:

21. Mr. & Mrs. Duncan hereby incorporate by reference each and every allegation set forth previously in their Complaint as if the same had been fully rewritten herein.

22. Defendant's conduct towards Mr. & Mrs. Duncan, through the actions and inactions of Defendant's agents/employees/supervisors, which resulted in their constructive discharge/termination from employment based upon their age, entitle Mr. & Mrs. Duncan to an award of punitive damages from Defendant, since the Defendant was aware of the discriminatory practices and failed to provide any relief to Mr. & Mrs. Duncan, and failed to call them back to employment instead choosing to constructively discharge/terminate them.

23. Defendant's conduct in constructively discharging/terminating Mr. & Mrs. Duncan, and in subjecting them to the above discriminatory practices based on their age, is conduct attended by circumstances of malice and wanton and willful conduct, entitling Mr. & Mrs. Duncan to exemplary and/or punitive damages.

WHEREFORE, Plaintiffs Robert and Peggy Duncan request this honorable Court to provide the following relief:

- A. Providing an award to Plaintiffs Robert and Peggy Duncan for their lost wages, benefits and other damages for their constructive discharge/termination in an amount to be determined by this Court;
- B. Award attorney fees as provided by law;
- C. Award damages against Defendant for its willful, wanton and egregious conduct in an amount to be determined at Trial;
- D. Any and other further relief that this Court deems just and proper.

Respectfully submitted,



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RONALD A. APELT (0046621)  
*Attorney for Plaintiffs Robert & Peggy Duncan*  
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<b>CASE NO.</b> CV21942779	D1 CM	<b>SUMMONS NO.</b> 43402445
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Rule 4 (B) Ohio

Rules of Civil  
Procedure**SUMMONS**

ROBERT DUNCAN, ET AL. <b>VS</b> MILLER PIPELINE, LLC, ET AL.	<b>PLAINTIFF</b>  <b>DEFENDANT</b>
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MILLER PIPELINE, LLC ATTN LEGAL CLAIMS 8850 CRAWFORDSVILLE ROAD INDIANAPOLIS IL 46234
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Said answer is required to be served on:



Plaintiff's Attorney

RONALD A. APELT 20600 CHAGRIN BOULEVARD, SUITE 400  SHAKER HEIGHTS, OH 44122-0000
--

Case has been assigned to Judge:

STEVEN E GALL Do not contact judge. Judge's name is given for attorney's reference only.
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<b>DATE SENT</b> Jan 12, 2021
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**NAILAH K. BYRD**  
Clerk of the Court of Common Pleas

By \_\_\_\_\_  
Deputy

COMPLAINT FILED 01/11/2021





UNITED STATES  
POSTAL SERVICE

Date Produced: 01/25/2021

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<b>CASE NO.</b> CV21942779	<b>D2 CM</b>	<b>SUMMONS NO.</b> 43402446
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Rule 4 (B) Ohio

Rules of Civil  
Procedure

<b>ROBERT DUNCAN, ET AL.</b> <b>VS</b> <b>MILLER PIPELINE, LLC, ET AL.</b>
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**PLAINTIFF**

**DEFENDANT**

## SUMMONS

MILLER PIPELINE, LLC ATTN LEGAL CLAIMS 5250 BROOKPARK ROAD CLEVELAND OH 44129
--

You have been named defendant in a sums complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Said answer is required to be served on:



Plaintiff's Attorney

RONALD A. APELT 20600 CHAGRIN BOULEVARD, SUITE 400  SHAKER HEIGHTS, OH 44122-0000
--

Case has been assigned to Judge:

STEVEN E GALL Do not contact judge. Judge's name is given for attorney's reference only.
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Clerk of the Court of Common Pleas

By \_\_\_\_\_  
Deputy



COMPLAINT FILED 01/11/2021



<b>CASE NO.</b> CV21942779	D3 CM	<b>SUMMONS NO.</b> 43402447
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Rule 4 (B) Ohio

Rules of Civil  
Procedure**SUMMONS**

ROBERT DUNCAN, ET AL. <b>VS</b> MILLER PIPELINE, LLC, ET AL.	<b>PLAINTIFF</b>  <b>DEFENDANT</b>
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MILLER PIPELINE, LLC CO NATIONAL REGISTERED AGENTS, INC. 4400 EASTON COMMONS WAY, STE. 125 COLUMBUS OH 43219
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Said answer is required to be served on:



Plaintiff's Attorney

RONALD A. APELT 20600 CHAGRIN BOULEVARD, SUITE 400  SHAKER HEIGHTS, OH 44122-0000
--

Case has been assigned to Judge:

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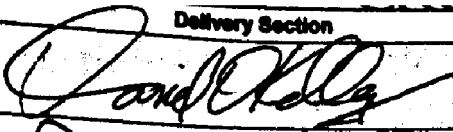
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